IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 142 OF 2005

MR.JOHN DENIS LUIS MASCARENHAS AND ANR., ...Petitioners

Versus

MR.ANTONIO ALIAS BONNY MASCARENHAS ALIAS BONIFACIO MASCARENHAS AND ANR., ...Respondents

Mr. C. D'Souza, advocate for the petitioners.
Mr. D. V. Patkar, advocate for respondent nos.1 and 2.

Coram:- R. M. LODHA, J.

Date:- 2nd September, 2005

P.C.

Heard Mr. C. D'Souza, advocate for the petitioner and perused the impugned Order and the proposed amendment in the written statement to the counter-claim.

In the written statement to the counter-claim, the present petitioners have already raised the objection that the counter-claim is not maintainable as the same is without substance and bad in law. In this view of the matter the proposed amendment in the written statement to the counter-claim was not necessary.

No case for interference in extraordinary jurisdiction under Article 227 of the Constitution of India is made out. It is clarified, however, that the dismissal of the petitioners' application for amendment in the written statement to the counter-claim shall not preclude the plaintiffs in pressing the objection that they had already raised in the written statement to the counter-claim that a counter-claim is not maintainable and the same is without substance and bad in law.

With the aforesaid clarification, the Writ Petition is dismissed in limine.

R. M. LODHA, J.